

than the motion moved by the member in charge of the Bill. There is no such thing in the Standing Orders or Rules to allow any motion contemplated by you. You won't achieve your object by opposing the motion for referring the Bill to a Select Committee.

As a matter of fact, I was thinking about this matter seriously before our decision to commit the Bill to a Select Committee. Hon'ble members should know perfectly well that even though similar Bills have been discussed in this House very often, there have been considerable differences of opinion amongst members of the Nambudiri community themselves and that His Highness the Maharaja had not given his assent to any of the Bills that were passed by this House on the subject. The Government now thought that the time has come when a measure of this kind should be placed on the Statute Book. So they have framed this Bill. Although many other similar Bills have been discussed in this House in the past, the provisions of this Bill are of a far-reaching character introducing changes in the customs of the Nambudiri community, and the Government thought that it will not be justifiable that a Bill of this nature should be rushed through in one session of the Council. Both the Government and this House would not be justified in adopting such a procedure. That is the reason why Government thought that there is no other alternative than to refer it to a Select Committee. I do think that there is no other chance to expedite action than this. Government are equally anxious to expedite the passage of this Bill and what I might do is—though the next Legislative Session will be only in the coming Vrischigam—I would consider the possibility of allotting a day during the budget session for this. I would seriously think about that. In the meantime, the Select Committee may expedite their report.

Mr. P. Govinda Menon (*Mulakunnathukavu*): In that case we withdraw our objection.

Mr. President: The motion is to refer the Cochin Nambudiri Bill to a Select Committee consisting of the members mentioned by the Advocate-General. The Advocate-General will be the Chairman of the Select Committee and the Committee should report within 2 months.

The House rose for lunch at 1-10 p. m. and re-assembled at 2-45 p. m. with the Deputy President in the Chair.

The Cochin Court-fees Act Amendment Bill.

Mr. C. A. Kunjunni Raja (*Advocate-General*): Sir, I beg to move that the Cochin Court-Fees Act Amendment Bill be read in Council.

Mr. K. P. Kannan Nayar (*Secretary to Government*): I second it.

Mr. C. A. Kunjunni Raja (*Advocate-General*): A similar Bill was introduced in the last Council on the lines of the Indian Suits Valuation Act, 1887 and it was referred to a Select Committee. The Select Committee reported that it need not be enacted as a separate piece of legislation, but that it may be introduced as part of the Court-Fees Act. So the Government then dropped that Bill. The present Bill is in pursuance of the recommendation of the Select Committee. The provisions are only adaptations of those in the British Act. There is absolutely no change. The Bill proposes to make adequate provision for valuation of suits as it is in British India.

The motion was put and carried.

Secretary to the Council: The title of the Bill is 'the Cochin Court-Fees Act Amendment Bill.'

* **Mr. P. Govinda Menon** (*Mulakunnathukavu*): Sir, I move that the Bill be referred to a Select Committee. The Bill seeks to introduce certain vital changes in the Court-Fees Act also; not merely in the matter of valuation of suits. I believe therefore, Government will have no objection in referring the Bill to a Select Committee. This self-same Bill was introduced in this House in the last Legislative Council and it was referred to a Select Committee by the Council itself. In that Select Committee there were eminent lawyers like Mr. Ambadi Sankara Menon and my hon'ble friend Mr. M. Sivarama Menon. And while this matter was discussed in the Select Committee,—I was a member also then—we suggested certain amendments to the provisions of the Bill and the Chairman of the Committee the then Advocate-General, Mr. Thomas Manjuran, was not disposed to accept those amendments suggested by us. Then we suggested that it would be better that the Bill be introduced as part of an amendment to the Court-Fees Act. If the Advocate-General would have it that this Bill has been introduced on the suggestion of the previous Select Committee appointed by this House, then logically he should also refer it to a Select Committee in order to continue the discussions on the suggestions made in the previous Select Committee. Involving as the Bill does, certain dry and intricate questions of law with regard to valuation of Court-Fees, I do not think it is proper, advisable and useful to refer to the changes that would be worked in the law by the passing of this

* Speech not corrected by the hon'ble member.

Bill. I therefore move that the Bill be referred to a Select Committee.

Mr. V. K. Krishnankutty (*Ezhuvas-Trichur*): I second it.

Mr. C. A. Kunjunni Raja (*Advocate-General*): Government have to oppose the motion. For the information of the House, I shall read the report of the Select Committee:

"We, the members of the Select Committee appointed to consider the Cochin Suits Valuation Bill, have the honour to submit the following report:—

The Committee considered the Bill and resolved that clauses 7 and 8 of the Bill be omitted.

There are some slight clerical mistakes which may be corrected.

We do not think that the Bill requires re-publication.

The Committee is of further opinion that it is preferable to combine the Suits Valuation Enactment and the Court-Fees Act in a consolidated Act, as the Court-Fees Act as it now stands requires many amendments so as to make it provide for all classes of suits."

The Court-Fees Act was amended so that there is need now only to incorporate into the Court-Fees Act provisions regarding Suits Valuation. That is what is being done.

Mr. P. Govinda Menon (*Mulakunnathukavu*): Please explain the relevancy of clauses 7 and 8 mentioned in the Select Committee report.

Mr. C. A. Kunjunni Raja (*Advocate-General*): The corresponding present sections are 28 F and 28 G. There, power is given to the High Court to frame rules "when the subject-matter of suits of any class other than suits mentioned in section 4, paragraphs V and VI and clause (e) of paragraph X, is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court, may, with the previous sanction of Government, direct that suits of that class shall for the purposes of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf" and 28(G) is only consequential to 28(F). The High Court is given certain powers under 28(G) to frame rules in the case of suits mentioned therein. The objection then was that the High Court should not be given that power. The Government cannot accept that suggestion, because the High Court will not be making rules which are detrimental to the

interests of the litigant population as was suggested in the Select Committee. Further the rules made by them, have also to be approved by the Government. The main objection, was that in the case of partition suits, under certain circumstances, at present a fee of Rs. 10 is sufficient and if the High Court is given the power to frame rules, the fear apprehended is that the rules framed by the High Court may affect the interests of litigants in this respect by fixing *ad valorem* fees. Government do not think that the High Court will do anything unreasonable. That was the main objection advanced in favour of deleting this clause. In other respects, there is absolutely nothing controversial. This House has only to see whether the High Court cannot be trusted in making rules which will be only reasonable. Government cannot agree to the omission of these clauses and hence these are retained in the Bill.

***Mr. M. Sivarama Menon (Ernakulam):** Mr. President, Sir, since the Government is rallying upon the merits of the Select Committee for its opposing the motion to refer the Bill to a Select Committee, I feel I am bound to make some observations. Clauses 7 and 8 of the Bill which was before the Select Committee were stoutly opposed and the Select Committee recommended that these clauses should be dropped, and that the provisions regarding the valuation of suits should be taken into the Court-Fees Act. That observation was also tacked on to the report. What I find in the present Bill is that those clauses are there without any change. They are very vital so far as litigant public was concerned. The effect of these clauses would be to impose a death duty, because as soon as there is a partition suit, one share will have to go to the Government. So the members of the Select Committee stoutly opposed these clauses.

You were saying, that the High Court must be trusted. You may know that the Public of Cochin have implicit faith and confidence in their High Court. But to give away the power that is now vested with the Legislative Council to the High Court and then to introduce legislation in the guise of rules is a matter against the constitutional privileges of this House (*hear, hear*). I dare say that this is a matter which affects vitally the privileges of this House and also dangerous to the interests of the litigant public. If a family consists of 5 members, and if they want to partition, the effect of passing the enactment will be that court-fee will have to be paid on each share. Unless this House exercises its privilege to enact a law in such a way that

*Speech not corrected by the hon'ble member.

the rule making powers which vitally change the present custom and which affect vitally the interests of the litigant public, it will go against the constitutional privileges enjoyed by this House. The argument that the High Court should be trusted to do its proper duty is no argument. When we have a right to say what should be and what ought not to be done, there is no reason to delegate this power to the High Court. The deletion of clauses 7 and 8 was insisted by the Select Committee for definite reasons. Therefore I support the motion to refer this to a Select Committee.

Mr. P. Govinda Menon (*Mulakunnathukavu*): I suggest the following names for the Select Committee.—The Advocate-General and Messrs. M. Sivarama Menon, V. K. Krishnankutty, C. R. Iyyunni and myself.

The motion to refer the Bill to the Select Committee, was put and carried.

Mr. Deputy President: The Advocate-General will be the Chairman of the Committee. The Committee has to report within three months.

RESOLUTIONS.

1. Appointments to the State Aided Schools.

Mr. V. N. Damodaran Nambiar (*Trippunittura*): The resolution that stands in my name reads thus: "*This Council recommends to the Government that all future appointments to the State-aided Schools be brought under the purview of the Staff Selection Board.*"

In moving this resolution before this Hon'ble House I wish to make one point clear at the very outset. I am not one of those who believe in the principle of communal rotation either in the matter of representation in the public service or otherwise. But if I plead by means of this resolution for an extension of that principle to a section, and that a very important section, of the public service it is because I am convinced that the intention of the Government in appointing the Staff Selection Board and fixing a particular proportion for the several communities in the State, is being frustrated by excluding this important section of the service from the purview of the Staff Selection Board. It is not because I am convinced of the soundness of this principle. The soundness or otherwise of this principle does not arise for our consideration now. The principle has already been accepted by the Government and if the opinion of the people are to be gathered from the points of view expressed in this Council by